

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations)
(Pacific Junction, Iowa))

MM Docket No. 99-50
RM-9425

To: Chief, Allocations Branch

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**REPLY COMMENTS IN
OPPOSITION TO COUNTERPROPOSAL**

Warga Broadcasting L.L.C. ("Warga"), the proponent of a new FM allotment of Channel 299A at Pacific Junction, Iowa, by its attorney and pursuant to paragraph 4 of the Notice of Proposed Rule Making, DA 99-319 (MM Bur., February 12, 1999), in **Pacific Junction, Iowa, et al.**, hereby opposes the Counterproposal submitted on April 5, 1999 by Mitchell Broadcasting Co. of Iowa, Inc. ("Mitchell")

In support whereof, the following is shown.

In its Counterproposal Mitchell asserts that Channel 299 can in fact be allotted to Pacific Junction as a Class C3 facility, which "will provide city grade coverage (70 dBu or 3.16 mV/m) to the entire community." This contention is clearly erroneous.

Annexed hereto is the Engineering Statement of John J. Mullaney of Mullaney Engineering, Inc. It speaks persuasively for itself. Mr. Mullaney concludes that the C3 Counterproposal is fatally defective. Contrary to Mitchell's assertion, its proposal fails to

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encompass *any portion* of the intended community of license. Beyond doubt, the staff analysis of Mitchell's Counterproposal will reach the identical conclusion. Channel 299C3 *cannot* in fact be allotted to Pacific Junction. Channel 299A is the only viable allotment.

Warga states once again that if Channel 299A is allotted to Pacific Junction as its first local service, Warga intends to apply for it.

WHEREFORE, for these reasons, Section 73.202(b) of the Rules should be amended and Channel 299A allotted to Pacific Junction, Iowa, as the community's first local aural transmission service. The Counterproposal must be rejected.

Respectfully submitted,

WARGA BROADCASTING L.L.C.

By: _____



Lawrence Bernstein

Its Attorney

LAW OFFICES OF
LAWRENCE BERNSTEIN
1818 N Street, NW
Suite 700
Washington, D.C. 20036
(202) 296-1800

Attachment

April 20, 1999

MULLANEY ENGINEERING, INC.

9049 SHADY GROVE COURT
GAITHERSBURG, MD 20877

ENGINEERING EXHIBIT EE-RM-1:

**REPLY COMMENTS OF
WARGA BROADCASTING L.L.C.
MM DOCKET 99-50
PACIFIC JUNCTION, IOWA
ALLOTMENT OF FM CHANNEL 299A/C3**

APRIL 14, 1999

**ENGINEERING STATEMENT IN SUPPORT OF
REPLY COMMENTS
IN OPPOSITION TO A COUNTERPROPOSAL TO ALLOT
CH. 299C3 TO PACIFIC JUNCTION, IOWA**

ENGINEERING EXHIBIT EE-RM-1:

**REPLY COMMENTS OF
WARGA BROADCASTING L.L.C.
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ALLOTMENT OF FM CHANNEL 299A/C3**

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1. Declaration of Engineer
2. Narrative Statement.
3. Figure 1, RM C3 Coverage to City of License.

DECLARATION

I, John J. Mullaney, declare and state that I am a graduate electrical engineer with a B.E.E. and my qualifications are known to the Federal Communications Commission, and that I am an engineer in the firm of Mullaney Engineering, Inc., and that firm has been retained by Warga Broadcasting L.L.C. to prepare an engineering statement in opposition to a counterproposal in MM Docket 99-50 at Pacific Junction, Iowa.

All facts contained herein are true of my own knowledge except where stated to be on information or belief, and as to those facts, I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.


John J. Mullaney

Executed on the 14th day of Nebraska 1999.

ENGINEERING EXHIBIT EE-RM-1:

**REPLY COMMENTS OF
WARGA BROADCASTING L.L.C.
MM DOCKET 99-50
PACIFIC JUNCTION, IOWA
ALLOTMENT OF FM CHANNEL 299A/C3**

NARRATIVE STATEMENT:

I. GENERAL:

This engineering statement has been prepared on behalf of Warga Broadcasting L.L.C. The purpose of this statement is to support an opposition to a counterproposal filed by Mitchell Broadcasting, Co., of Iowa, Inc., requesting that the FM Table of Assignments be amended to allot Channel 299C3 in lieu of Channel 299A at Pacific Junction, Iowa - MM Docket 99-50.

II. ENGINEERING DISCUSSION:

A. Proposed C3 Site:

The following geographic coordinates were specified as the special reference point in the counterproposal filed by Mitchell Broadcasting:

Latitude: 41° 08' 32.8"
Longitude: 95° 33' 39.0"

The reference coordinates for the city of Pacific Junction are as follows:

Latitude: 41° 01' 07"
Longitude: 95° 47' 56"

The special C3 coordinates are 24.28 kilometers on a bearing of N-55-E from the reference coordinates for the city of license. This site restriction is needed in order for 299C3 to be properly spaced.

B. Required Service To City Of License:

Figure 1 is a map which illustrates the proposed C3 special reference point. In addition, that map illustrates the location of a 23.2 km arc from said reference coordinates. This map clearly illustrates that the C3 proposal fails to encompass any portion of the city of license within this arc. Since allotment reference points are required to encompass 100% of the proposed city of license it is clear that this C3 counterproposal is defective and therefore, unacceptable as a counterproposal.

It is well established that in rule making proceedings, the Commission uses an assumption of uniform terrain which results in a simple arc or circle to represent the desired contour. The Commission has repeatedly declined to use actual terrain in evaluating the potential coverage of New allotments since it is impossible to determine what specific transmitter sites will ultimately be applied for by a potential group of applicants, nor if the petitioner will be the successful applicant.

It should be understood that only the C3 is unable to properly encompass the city of license. The originally proposed special reference point for the Class A allotment (also shown on the map) has a much smaller site restriction. Since the Class A reference point is just 4.55 kilometers on a bearing of N-20-E from the city, it easily encompasses the

entire city of license within the 16 km arc used for Class A allotments.

Warga Broadcasting believes that the allotment of a fully compliant class of FM channel is preferred over the allotment of a higher class FM channel with potential sub-standard service to the city of license.

III. SUMMARY:

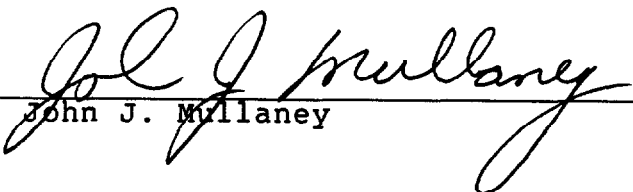
Warga Broadcasting L.L.C. opposes the counterproposal by Mitchell Broadcasting to allot Channel 299C3 in lieu of Channel 299A to Pacific Junction, Iowa. As demonstrated herein, the C3 proposal fails to encompass any portion of the city of license within the 23.2 km arc used for allotment purposes and, thus is clearly defective.

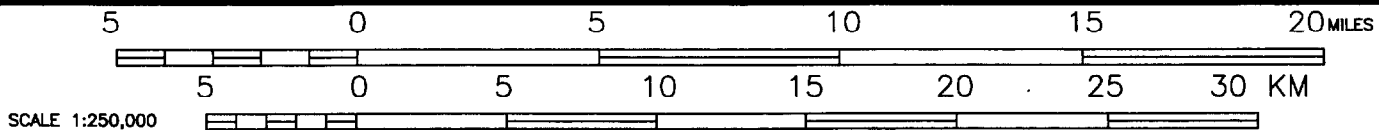
Warga Broadcasting repeats its requests that the FM Table of Assignments be amended to allot FM Channel 299A at Pacific Junction, Iowa.

City	Present	Proposed
Pacific Junction, Iowa	- - -	299A

Warga Broadcasting believes that the proposed allotment of a Class A facility as the only Local Service assigned to Pacific Junction, Iowa, will Serve the Public Interest. If allotted Warga Broadcasting will promptly file an application.

April 14, 1999.

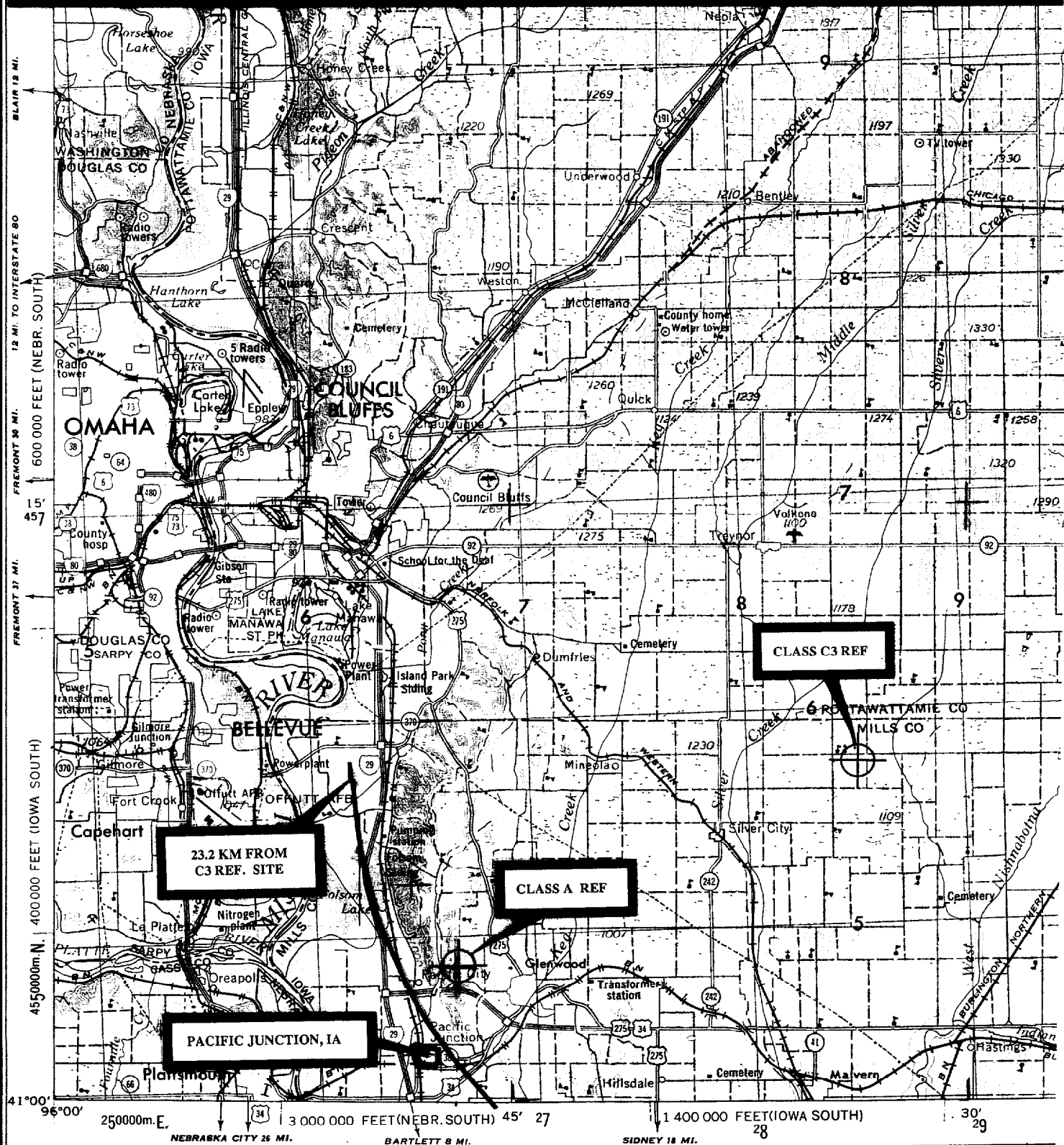

John J. Mullaney



RM C3 COVERAGE TO CITY OF LICENSE
WARGA BROADCASTING L.L.C.
PACIFIC JUNCTION, IOWA
MM DOCKET 99-50

MULLANEY ENGINEERING, INC.
GAITHERSBURG, MARYLAND

FIGURE 1
APRIL 1999



CERTIFICATE OF SERVICE

I hereby certify that I have, this 20th day of April, 1999, served copies of the foregoing "Reply Comments in Opposition to Counterproposal" upon the following persons by first class United States Mail, postage prepaid:

Ms. Sharon P. McDonald
Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
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Lawrence Bernstein